

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA

MAJOR GEORGE TILLERY

Petitioner

v.

KENNETH EASON, *Superintendent, State  
Correctional Institution at Chester*, et al.

Respondents.

CIVIL ACTION

No. 20-cv-02675-ABB

**PETITIONER'S MOTION FOR LEAVE TO CONDUCT DEPOSITION  
TO PRESERVE TESTIMONY**

Petitioner Major Tillery, by and through his undersigned counsel, hereby moves this Honorable Court for leave to take deposition to preserve testimony, and in support thereof, states the following:

1. This matter is now before the court on the Petitioner's Subsequent or Successive Petition for a Writ of Habeas Corpus, which was filed on June 5, 2020, following an Order of the United States Court of Appeals, pursuant to 28 U.S.C. § 2244.
2. The parties have engaged in voluntary discovery and Petitioner filed his Amended Petition on June 2, 2022. Since that time, the parties have engaged in additional discovery following the Respondents' discovery of several boxes containing relevant information.
3. Petitioner was given a full opportunity to review the contents of the boxes referred to in the preceding paragraph. Following that review, and the timely provision of copies by the District Attorney's Office, Petitioner filed letters with the Court (ECF Nos. 44 and 45) identifying and attaching items designated by the Petitioner which reinforced his existing claims.

4. Presently, the Respondent's response to the Amended Petition is due to be filed on March 27, 2023, pursuant to the Court's Order granting the Fourth Motion for Extension of Time (ECF No. 48).

5. Petitioner's claims, in part, are based on the newly discovered evidence that Robert Mickens, one of the Commonwealth's two witnesses that connect Petitioner to the crime was not only recanting his testimony, but was also describing new facts, including that his statement and testimony were fabricated by the Philadelphia Police Department and the District Attorney's Office, that he was instructed by the Commonwealth's other witness to falsely testify against Petitioner, and that he was given opportunities for sexual liaisons while incarcerated in order to repay him for his false testimony.

6. The substance of Mr. Mickens' anticipated testimony has been memorialized in a sworn declaration that was attached to the Petitioner's Amended Petition (ECF No. 28), as well as an interview with the Philadelphia Inquirer that is posted at <https://youtu.be/1nYAsf2swkI>.

7. Mr. Mickens is now at an advanced age and is suffering from a variety of health problems. Petitioner's representative has been in phone contact with Mickens and has confirmed that he has recently been in and out of the hospital.

8. Counsel for Petitioner and Respondent have conferred regarding an evidentiary hearing or videotape deposition to preserve Mickens' testimony for consideration by the Court. Respondent's counsel does not oppose the scheduling of a deposition for this purpose.

WHEREFORE, Petitioner Major Tillery, respectfully requests that this Honorable Court grant leave for the parties conduct a videotape deposition of Robert Mickens at the earliest convenient date.

Date: March 17, 2023

Respectfully submitted,

MARRONE LAW FIRM

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**CERTIFICATE OF SERVICE**

I hereby certify that I have filed the within Motion for Evidentiary Hearing or, in the Alternative, Motion Granting Leave to Conduct Deposition using the Court's Electronic Filing System, making it available for all parties to review.

Date: March 17, 2023

MARRONE LAW FIRM

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